

Canadian Blood Services

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Research and Development

1657

THE UNIVERSITY OF BRITISH COLUMBIA

Department of Pathology and Laboratory Medicine



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RE: PROTEST OF PATENT APPLICATION

Patent Application: 20020042043 Serial No.: 09/872466 Filed: May 31, 2001

Preparation of a pathogen inactivated solution of red blood cells having reduced immunogenicity

Inventor: Stassinopoulos, Adonis

Assignee: Cerus Corporation

February 9, 2003

Patent Examiner of 09/872466:

Patent application 09/872466 was discovered during an on-line USPTO search. I would like to advise the Patent Examiner of the above referenced application of **US Patent 5,908,624 "Antigenic Modulation of Cells"** (Issued June 1, 1999; Inventors, Mark D. Scott and John W. Eaton; Assignee: Albany Medical College). Also see Scott *et al.* **Proceedings of the National Academy of Sciences**, 1997, 94:7566-7571 and Scott *et al.* **Transfusion Medicine Review**, 2000, 14:53-63 as well as Scott *et al.* **Current Pharmaceutical Design**, 1998, 4:423-438 (references attached). Other relevant publications by the inventors are also attached.

This issued patent and public domain publications were not cited by the above referenced application despite the fact that the applicant/applicant organization are quite aware of their existence and had, in fact, met at least twice with an inventor and a patent licensee well in advance (February, 1998) of their filing date. These meetings were conducted under a non-disclosure agreement (Cerus Corporation and Biomedical Frontiers Inc., Minneapolis, MN; copy enclosed). Failure to cite these teachings and relevant publications are of obvious concern to the inventors, assignee and license holders of USP 5,908,624.

Our issued patent and publications appears to cover all aspects of the "*reduced immunogenicity*" claims of the applicants. As such, the cited application constitutes an obvious use of our issued patent. Furthermore, the "*pathogen inactivation*" claims simply replicate the applicant organization's own existing patents. There appears to be no novel findings related to the combinational effects of the inventions; rather the applicants are simply using the teachings of USP 5,908,624 to modify cellular immunogenicity as taught in 5,908,624.

It is our hope that the Examiner of USP application 09/872466 will review the teachings of USP 5,908,624 and the cited publications as they relate to the claims of the referenced application.

Should you have any question, please contact me at any of the above numbers/e-mail addresses.

Thank You,

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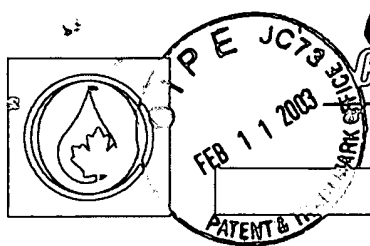
FEB 13 2003

Mark D. Scott
Inventor, USP 5,908,624

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Cc:

John W. Eaton (Inventor), University of Louisville, Louisville, KY
Albany Medical College (Assignee), Albany, NY
Biomedical Frontiers (Patent Licensee), Minneapolis, MN
Cerus Corporation (Applicant Organization), Concord, CA



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Inventor: Stassinopoulos, Adonis

Assignee: Cerus Corporation

Prior Art Documentation

(A complete copy of each of the below are included)

Only prior art published prior to May 31, 2001 (Filing Date of 09/872466) is included.

February 9, 2003

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1. USP 5,908,624
2. Scott, M.D., Murad, K.L., and Eaton, J.W. (1997) The other blood substitute: Antigenically inert erythrocytes. In: *Advances in Blood Substitutes: Industrial Opportunities and Medical Challenges* (Winslow, R.M., Vandegriff, K.D., and Intaglietta, M. eds) Birkhäuser, Boston. pgs. 133-150.
3. Scott, M.D., Murad, K.L., Koumpouras, F., Talbot, M., and Eaton, J.W. (1997) Chemical camouflage of antigenic determinants: "Stealth" erythrocytes. *Proc. Nat. Acad. Sci. USA*, **94**, 7566-7571.
4. Scott, M.D. and Murad, K.L. (1998) Cellular camouflage: Fooling the immune system with polymers. *Current Pharmaceutical Design*, **4**, 423-438.
5. Murad, K.L., Mahany, K.L. Kuypers, F.A., Brugnara, C., Eaton, J.W., and Scott, M.D. (1999) Structural and functional consequences of antigenic modulation of red cells with methoxypoly(ethylene glycol). *Blood*, **93**, 2121-2127.
6. Murad, K.L., Gosselin, E.J., Eaton, J.W. Scott, M.D. (1999) Stealth Cells: Prevention of MHC Class II mediated T cell activation by cell surface modification. *Blood*, **94**, 2135-2141.
7. Scott, M.D. Bradley, A.J., and Murad, K.L. (2000) Camouflaged Red Cells: Low technology bioengineering for transfusion medicine? *Transfusion Medicine Reviews*, **14**, 53-63.
8. Published Abstracts: 1996-1997
9. Nondisclosure Agreement: Biomedical Frontiers (Minneapolis, MN) and CERUS Corporation (Concord, CA)